IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

WP(C).No. 23038 of 2007(P)

PETITIONER:

THE CANNANORE COUNTRY CLUB AND RESORT PVT. LTD., KANNUR REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR SRI.U.K.NAMBIAR, S/O. C.GOVINDAN NAIR, AGED 62 YEARS, KRISHNAPURAM, KOODALI, KANNUR.

BY ADV. SRI.M.K.SUMOD
SRI.KAUSER EDAPPAGATH

RESPONDENTS:

1. **SRI.P.N.SASIKUMAR, AGED 52 YEARS, S/O. NANUKUTTAN NAIR, POOTHATTAMADOM, CHOVVA, KANNUR - 6.**
2. **THE ASSISTANT EXCISE COMMISSIONER, EXCISE DIVISION OFFICE, KANNUR.**
3. **THE EXCISE COMMISSIONER, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.**
4. **THE MANAGER, KERALA STATE BEVERAGES (M&M) CORPORATION LTD., FL-9, WAREHOUSE, KANNUR.**
5. **THE STATE OF KERALA, REPRESENTED BY SECRETARY, EXCISE DEPARTMENT, THIRUVANANTHAPURAM.**

BY ADV. SRI.P.N.RAVINDRAN for R1
SMT.PREETHY KARUNAKARAN
SRI.JAYKAR.K.S.
SRI.MILLU DANDAPANI
BY GOVERNMENT PLEADER SSRI. M.R.SABU for R3 & R5

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/08/2007 ALONG WITH WPC NO. 23405 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.23038/2007 P

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE ARTICLES OF ASSOCIATION OF THE PETITIONER COMPANY.**

EXT.P2: **COPY OF THE FORM NO.32 DTD. 08/03/02 REGARDING THE APPOINTMENT OF THE 1ST RESPONDENT.**

EXT.P3: **COPY OF THE MINUTES OF THE BOARD MEETING HELD ON 18/12/06.**

EXT.P4: **COPY OF THE FL3 LICENSE NO.1/2005-06 ISSUED BY THE 3RD RESPONDENT.**

EXT.P5: **COPY OF THE RECOMMENDATION LETTER WITH REF.NO.C1. 2191/07 DTD. 09/04/07 ISSUED BY THE 2ND RESPONDENT TO 3RD RESPONDENT.**

EXT.P6: **COPY OF THE ORDER NO.XC1-10169/07/D.DIS. DTD. 07/05/07 OF THE 3RD RESPONDENT WAS COMMUNICATED BY THE 2ND RESPONDENT TO THE PETITIONER.**

EXT.P7: **COPY OF THE RETURNED REQUEST SLIP DTD. 20/07/2007.**

EXT.P8: **COPY OF THE COVERING LETTER WITH REF.NO.KSBC/KNR/LIC/ 2007-08 DTD. 20/07/07.**

EXT.P9: **COPY OF THE LETTER WITH REF.NO.2191/2007 DTD. 19/07/2007.**

/TRUE COPY/

P.A.TO JUDGE

KSS

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).Nos.23038 & 23405 OF 2007

Dated this the 18th day of August, 2007

JUDGMENT

Ext.P12 in W.P(C).23405/07, which is under challenge in that case, is the same as Ext.P6 in W.P(C).23038/07, seeking enforcement of that order. That is the decision by the competent authority under the Abkari Law, transferring the FL3 licence to the person in whose favour that order has been made. The contention of the petitioner in W.P(C).23405/07, in whose name the licence stood earlier, is that blank papers signed by him in the course of business have been abused by the petitioner in W.P(C).23038/07 and others and that it is this exercise that ultimately led to the said order. It is also a matter of record that there are two suits pending before the civil court, between the parties, regarding the business in question, including the licence.

In the aforesaid circumstances, after hearing counsel for parties, these writ petitions are disposed of directing that the aforesaid order transferring the licence shall be given effect to

immediately and the petitioner in W.P(C).23038/07 will be entitled to carry on the business on the strength of such transfer in favour the transferee named in that document, subject to the condition that audited quarterly balance sheets regarding the entire transactions from today, in relation to that business, are placed before the civil court, which will thus have on its record the Profit and Loss account, which may be required to finally dispose of the litigations between the parties, now pending before the civil court. All other contentions are left open to be agitated by the parties before the civil court.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.